

P R O C E E D I N G S

COMR. VAP: We will go on the record. The hearing in Docket Number 911-014/PI-99 will come to order. I am Commissioner Jerry Vap, and I have been designated as the hearing officer for this hearing. Joining me today are Commissioners Frank Landis, on my left, Lowell Johnson on my right, and Anne Boyle on my far right. Susan Lamborn is our court reporter. The Commission opened this docket on June 28, 2005, and investigate issues related to the current state of landline and advanced wireless 911 service, and the means to ensure statewide access to landline 911 and enhanced wireless 911 service. Notice of the docket was published on June 29, 2005, in the Daily Record, Omaha, Nebraska. A copy of that publication will be entered into the record as Commission Exhibit Number 1.

(Commission Exhibit Number 1, having been duly identified, was received in evidence. See Supp. Volume)

Today's hearing was set by an order entered on August 30, 2005. A copy of this order was sent to all interested parties. A copy of this order and the certification will be entered into the record as Commission Exhibit Number 2.

(Commission Exhibit Number 2, having been duly identified, was received in evidence. See Supp. Volume)

Written comments were received from several parties. A copy of the written comments will be entered into the record as Commission Exhibit Number 3.

(Commission Exhibit Number 3, having been duly identified, was received in evidence. See Supp. Volume)

This hearing will be conducted in a legislative format which means there will be no cross-examination. However, the Commission and its staff reserve the right to ask questions of any of the parties commenting today. The Commission staff will present testimony first. We will then open the hearing for comment from others. The Commission staff will then provide any further information at the close of the hearing. A sign-in sheet has been circulating for those who wish to provide testimony today. Please sign in. The staff will call your name when it is your turn. Please keep your comments brief so as to allow everyone an opportunity to speak and avoid repeating comments already made by others. We will now take appearances, beginning with the Commission staff.

MS. MELTON: Angela Melton on behalf of the Commission staff.

COMR. VAP: Very well.

MS. MELTON: We would like to just, for the record, the League of Nebraska Municipalities have notified us that they had planned to be here today, but

wanted to express their support of their previously submitted written testimony and were not able to come and just ask that if the Commission has any questions, we direct that to them.

COMR. VAP: Very well. Their comments have been entered into the record.

MS. MELTON: Yes, sir. We would start by calling Kara Thielen.

COMR. VAP: All right.

MS. MELTON: Kara just has some brief comments to make to open the hearing.

COMR. VAP: Please proceed.

MS. THIELEN: My name is Kara Thielen. I am Director of the Wireless 911 department. The Nebraska Legislature initiated a legislative resolution to investigate issues related to the consolidation of public safety answering points or PSAPs throughout the state, and to examine the current state of both landline and wireless Enhanced 911. We opened this docket in order to provide information to the Legislature on these issues. My department does not have a recommendation as to whether or not consolidation was appropriate. We intend only to provide information on those aspects of consolidation that relate to us so the Legislature may

make an informed choice. The decision to consolidate is completely a legislative function. Staff is currently preparing a complete report to be submitted to the Commission and the Legislature. We will incorporate the comments received during today's hearing as well as the written comments filed in response to the docket. Additionally, we will provide information on the state of the E-911 throughout the country, various methods for implementing and funding E-911, and cost information. To provide for today's proceedings, I will offer some brief background on E-911 and the status of 911 with Nebraska and other states. I will also respond to some of the comments submitted to the Commission in this docket. Finally, I will be able to at the conclusion of the public testimony to answer any questions or to respond to comments made today. Background. I think we should start with some definitions so that we are all on the same sheet of music. Phase 1 provides the callback number and the address of the cell tower. Phase 2 provides Phase 1 information as well as the latitude-longitude of the caller. There is no Phase 3. That was some of the comments that were submitted with the comments that were submitted during our public time frame. I know there was some reference made that Iowa has implemented Phase 3 and there is no Phase 3. PSAP 911 center is basically a center that answers the 911

calls and it is manned 24-7. GIS system is a geographical information system which is basically made of a computer software system that enables one to visualize geographic data such as a street address and to a map location and is also used to coordinate latitude and longitude information from a wireless caller. It can also query and analyze data in order to receive the results into a form of a map. Also, to give some background on the purpose of the wireless 911 surcharge in the fund, I think we even need to back up a little bit further on that as to let us look at the purpose of the surcharge. It was basically originally on the landline side was to create a fund to cover the cost to implement Enhanced 911. There is an assessment that is made on each telephone number. In the case of the wireline, there is a surcharge collected on each telephone number by the LEC. The surcharge is then remitted to the PSAP to pay for the equipment and to pay for the LEC costs, i.e., the database management circuits --

COMR. LANDIS: Does everybody know what LEC means?

MS. THIELEN: Local Exchange Carrier, telephone company, your 911 provider.

COMR. BOYLE: Kara, could you slow down a little bit?

MS. THIELEN: Okay. The state -- the same is true for the wireless. The surcharge is collected on each wireless subscriber and then is remitted to the state. The state, then, pays for the LEC costs and the wireless carriers cost, any equipment needed for Phase 1 or for Phase 2. If the surcharge were remitted directly to the PSAP. The PSAP would then have to turn around and pay these existing costs that currently the fund is paying for. The current status of implementation in Nebraska. We currently have 57 counties that have implemented E-911, seven counties that have basic 911, and the remaining are implementing E-911. Currently, before a PSAP can request Phase 1, they need to be enhanced. They need to be in a selective router, prior to even moving forward with any implementation of Phase 1. There is a couple of reasons for this.

MS. MELTON: Can you explain what a selective router is?

MS. THIELEN: That is where I am going. A selective router provides tandem switching. It basically provides of the routing of a call. So, a call comes in from an exchange that is within the county. It determines that if based on the location where this person is calling from, from a landline perspective, that it needs to route it to a particular 911 center. If you are not in the tandem, it is all based on -- you

have direct trunks that are going into each 911 center.

There is no ability to
-- or to go to the correct 911 center. So, for instance, you take the Eagle and the Eagle exchange, where if it is direct trunk into Lancaster County, there may be people that are served by that exchange out of Eagle that live in Cass County. When you are a non-selective router, those calls go directly into the Lancaster County 911 center and then they have to turn around and transfer it back to Cass County. A selective router provides the ability for that call to come in and say, oh, this is a call from this exchange but it is also -- this person lives in Cass County. So, it is automatically then routes it to the correct 911 center.

So, it alleviates any transferring and the call can be responded to immediately. Also, another reason for this is that it is cost effective. If we were to not be on selective routers and to not have that technology capable, a wireless carrier would have to provide trunking to each and every wireline center exchange. That would cost much more money than if we have the trunking go from their mobile switching center to the LECs selective router. We currently have 53 counties that have Phase 1.

COMR. VAP: How many was that?

MS. THIELEN: Fifty-three.

COMR. VAP: Fifty-three.

MS. THIELEN: To back up, we do have -- there are a couple of counties, Dixon County, has been enhanced, but they do not have any towers to implement for Phase 1 or Phase 2. They are just not served by any wireless carriers in that area. Then, we have two other additional counties that have implemented just in the last couple of months their Enhanced 911, and then Butler County implemented E-911 several months ago, but they did not get their request for funding for Phase 1 in as of yet. So, as to Phase 2, we have two counties that have requested Phase 2 from carriers that are not seeking cost recovery from the fund. These carriers are seeking additional cost recovery from their customers as an additional surcharge on their bill.

COMR. LANDIS: Well, what companies are those, Kara?

MS. THIELEN: It would be Sprint PCS and I believe it was Horizon.

COMR. BOYLE: Do we know that they are still trying to get those funds from their customers or have they already collected those funds?

MS. THIELEN: It is a surcharge on their bill from my understanding.

COMR. BOYLE: As I understand, speaking to one

of them, that it has already been taken care of.

MS. THIELEN: I am just going by the information that they have supplied us in the past, that they are seeking their cost recovery from other means.

COMR. BOYLE: So, they have -- so, it could be that it has already been paid for.

MS. THIELEN: I don't know enough about that, Commissioner Boyle, to make a comment on that.

COMR. BOYLE: All right.

MS. THIELEN: Also, we are looking at other states and their 911. I have gotten this information from the NINA folks as well from my peers with the National Number Administrators -- or not Number Administrators. It is basically -- it is my peers at other state levels. It is estimated that 38.9% of the 3,135 counties in the nation have Phase 2. Those with state coordination have implemented 56.41% of their counties with Phase 2. Those without state coordination only have implemented 16.4% of their counties with Phase 2. Those states with state coordination are 18% above the national average versus a state without state coordination. So, really, there is a 40% difference in those states with state coordination versus without. We will be providing more information regarding the state 911 programs in our interim study report. That is all I have.

COMR. VAP: Any questions? Thank you.

MS. THIELEN: Thank you.

COMR. VAP: It is open to the public or anyone else that is here to comment.

MS. MELTON: Julie Righter has signed in to testify.

COMR. VAP: Okay. Julie, we would ask you to state your name and spell it and who you represent, please.

MS. RIGHTER: Julie Righter. It is J-u-l-i-e R-i-g-h-t-e-r. I am with the Lincoln Emergency Communications. We serve 911 needs for Lincoln and Lancaster County and also some of the surrounding counties from a -- perspective. We have already filed comments. I am here in support of those. I also wanted to bring to the Commission and anyone else that will listen that once again just on the 8th of October, we had a life threatening incident with a cell phone caller where it took us 30 minutes to find them. It was only because a young girl was smart enough to send a text message to a friend that we were able to find them.

COMR. LANDIS: That was televised, by the way, and your reaction was on -- you were on TV, then.

MS. RIGHTER: Right. Once again, the press was at my door and I sent them to yours, also.

COMR. LANDIS: Did you send them to the

Legislature?

MS. RIGHTER: Yes, both of you. So, it is just a really scary situation. There are a lot of people out there. The cell phones are just proliferating. They are everywhere. People don't know where they are at. There is an assumption, no matter how much publicity you try to get out there, that we don't know where you are at. There is an assumption when people are giving their teenagers and their young children these cell phones that we are going to be able to find them, and that is not the case. It is bad for them. It is really bad for my staff who are somewhat helpless in that situation. We are just here in support of whatever can be done. We are already consolidated probably to any point that we would ever want to be or need to be. We are ready to go and have been for over a year. We have Phase 1 with all but one carrier, and the sooner we can get Phase 2, the better.

COMR. LANDIS: When you say consolidated, you are talking about the Lancaster County area. You are not talking statewide. As far as how it works for you and our surrounding --

MS. LIGHTER: Right. We are already taking calls and dispatching calls within our area. City-county wide as well as into those other counties for some calls. When you look at the larger picture of not

just telephone tying in the radio needs and interoperability with those surrounding counties, we have been working closely with all of those counties. We just need to get moving. So, that is why I am here.

COMR. VAP: You said you have one cell phone provider that is not Phase 1 capable.

MS. RIGHTER: We have not turned them on yet. We are coordinating with Kara on that one, yes.

COMR. VAP: Okay.

MS. RIGHTER: We have one left to go of those that are providing service today in Lincoln.

COMR. LANDIS: Are we -- are you talking to the Lincoln legislators in Lancaster County? Legislators because it is a funding issue as I see it, as I understand it.

MS. RIGHTER: Yes.

COMR. LANDIS: We want to get there, and it is a matter of how soon we get there.

MS. RIGHTER: Yes.

COMR. LANDIS: Douglas County, you are up and running now.

COMR. BOYLE: For two carriers, because they are offering the service at no cost.

COMR. LANDIS: For two, right. But, as I understand it, it is funding. We have state senators -- certain state senators kind of indicating in the media

that we are trying to move too fast out here.

MS. RIGHTER: I would hope it wouldn't be their daughter that needed the help.

COMR. LANDIS: What I am saying is that there is a political side to this whole issue. I think your voice has to be raised with the right body which in my view is the Legislature.

MS. RIGHTER: Right. We are doing that.

COMR. LANDIS: Good. I think that is that point of it. I think rural senators need to be speaking up and saying this is important to our constituency because it is tough for us to get out too far. We had a bill in, and I am sure you know about that. You may have testified on it, I don't recall.

MS. RIGHTER: I was there, but --

COMR. LANDIS: Yes, but you talk about slamming a door in our face. That is exactly what happened.

MS. RIGHTER: Right.

COMR. LANDIS: You don't want to be where you want to be, but it is a matter of talking to the right folks. I want to make that clear to everybody here. That certain people need to hear that concern. It is an issue that is easily demagoged. Let me put it that way.

MS. RIGHTER: Yes, I agree.

COMR. LANDIS: Commissioner Boyle can tell you about that situation where accusation -- we tried to

triple the tax on consumers. Well, unless you are in the boat at that time --

COMR. BOYLE: Fee.

COMR. LANDIS: Fee, whatever it is called. I am not so sure they didn't call it a tax, but my point of it is --

MS. RIGHTER: They called it that --

COMR. VAP: It is a surcharge. It is not a tax.

COMR. LANDIS: I know, but that is not necessarily what is reported in the media which is my point. So, there are some political ramifications here, and that is why I want you to know from your Commissioner that I think it is important that our senators know how important this is.

COMR. BOYLE: If I could not put you on the spot, and if you don't have an answer, but just to ask you for some thoughts on this. Federal law says that any state may tell a carrier that they must implement Phase 2 and that a state does not necessarily have to pay for Phase 2. Of course, there are all kinds of problems that come with that. It is expensive. Two carriers, as you know, Sprint and Horizon, do provide Phase 2 at no cost because they have changed their technology and they can do that. The way they have done that is they spread the cost of that across all of their

customer base wherever that may be. Our law in Nebraska, the state law here, requires us to pay for Phase 2, which in my mind puts a heavy burden on state ratepayers to pay for the entire cost rather than allowing us to say it must be done and help us with some of those costs. Would you find yourself supportive of something that suggests to the Legislature that we have to have more discretion as to what we may pay for given the shortage of money?

MS. RIGHTER: Not knowing what those rules would be, I could say -- I guess I am on the spot a bit, but, yes. I mean, you know, the original bill was somewhat vague because we didn't know what it was going to look like. We didn't at that point -- that was several years ago, know how we were going to implement.

There wasn't a 911 coordinator. There were a lot of unknowns when that was that original bill. So, yes, I think that maybe some priorities need to be set. What those would be, I don't -- I wouldn't want to say what those would be. It is not my -- within my scope to decide that. That would probably be something for you.

I certainly would support that we -- whatever we have to do to at least get this started. I think we have got to get started somehow. If prioritizing it in some manner as to who gets recovery and maybe not all of it is covered, whatever you come up with, the rules with

input from the public safety community, I think we would certainly support that. We are feeling somewhat frustrated right now because we are on hold and we just can't move forward. If we could at least be working on something, I think we would be a lot -- I can't speak for everyone here, but I think we would be a lot happier. At least we are moving forward and not just standing still.

COMR. LANDIS: I think, and in answer to maybe Commissioner Boyle, that we want to move forward. That is why we are all here this afternoon, but we are hearing from the Legislature very clearly, just cool your jets. That is what it looked like in the newspaper this spring when Senator Baker made it sound like we were running amok over here and just spending money like a drunken sailor. It comes out in the paper like we don't know what we are doing. It is kind of cute unless you are on the receiving end of this barrage, but I want you to know that we do care and we are trying to move forward, but we are trying to move forward in a constrained environment. We have the Legislature which sets policy telling us they want their own study. That is great. They need to get this information. They are the policy maker. It is not that we are sitting here because we want to or this is just government inertia. We are just sitting around doing nothing. We are kind

of waiting for guidance. Is that fair, Anne? You are kind of lead this -- I mean, I think we are kind of waiting for the Legislature to say here is your parameters, and then we are ready to go, but there may be as much frustration with us as with you. I want to make that clear.

MS. RIGHTER: Yes.

COMR. BOYLE: I do think this is -- what we glean from this hearing will be of help to them because with all respect to everything they do, they don't just deal with this like we do. They have a myriad of other things that come before them. So, if we can provide additional information to them to understand how we are constrained, and how even our own state law, while well intentionally began, in some way, it constrains this Commission from having discretion to move ahead in some areas where we might be getting more things done.

MS. RIGHTER: If it is an education issue, if we need to be doing more with the Legislature as far as -- come and visit us. I mean, I know that there are quite a few of you out there that are in the same boat that Lincoln 911 is. I am sure that any of us would be glad to host a tour. Let them see what the dispatchers are dealing with every day. Whatever it takes to get things moving. That is my --

COMR. VAP: I would like to place this somewhat in the context of -- we have Douglas and Sarpy counties and Lancaster County and Hall and Buffalo that are there. They are ready to go with Phase 2 and everything. In the portion of the state that I represent, which is 51 counties west of Grand Island, we have everything from counties that still have seven digit dialing. They do not even have basic 911, and all the way up to counties that are ready to go to Phase 2.

This is where in all fairness to the Telecommunications and Transportation Committee, they want to try and get those counties caught up with everybody else. In looking at this whole picture, there are some out there that probably need to consolidate. They don't have the money to operate a landline PSAP let alone one that is going to handle the wireless at the same time. So, it is a process that has come to a halt. We originally had marching orders that said there is a PSAP in almost every county out there, go set them up on Phase 1. Well, now we are finding out that it is a very expensive process and perhaps in consolidation should take place.

There are already some counties that have done it, at Ogallala and Keith County. There is I think six counties that have said, Ogallala, why don't you be our PSAP and we will kick in the money to take care of our share of it. That is a good start, but there is several

other counties out there that would like to support a PSAP but I am not sure they can. I think maybe the Committee is probably correct in saying maybe we had better look at this before we have people spend upwards of \$200,000 or more in a county that couldn't support it afterwards. So, they are doing that and this is all part of that process. I can understand the anxiousness of the people in the more populous counties saying let us get on with it. So, we are all heading in the same direction. Some of us want to move faster than others, but I think we need to take a good look at how we go about this so that in a short period of time, we can provide the same service to everyone in the state. I know that some of those counties are going to be up and running quicker. That is fine. The big problem I see right now with the counties that have implemented Phase 2 with two carriers is that there is over a dozen carriers in those communities. People that don't have the proper company serving them are going to think they are going to make a 911 call with a GPS chip in their phone, and it is going to work, and it is not going to.

MS. RIGHTER: They think that anyway.

COMR. VAP: I know they do, but it is even worse when that --

MS. RIGHTER: It doesn't matter whether it is on or off. It is --

COMR. LANDIS: Yes.

COMR. VAP: It is even worse when the press says Phase 2 is in effect in Douglas County or in Lancaster County or whatever when it is partially. Someone thinks that they are going to get connected and they aren't. So, it is a huge issue that we all need to deal with.

MS. RIGHTER: And, I do understand the less populous, you know, someone -- you mentioned there is one that doesn't -- they are ready but they don't have any cell coverage. Those that are still basic 911. Those are all other issues, but if you look at the actual intent of the wireless Enhanced 911, those of us that are ready shouldn't be held back at the expense of those that are not.

COMR. VAP: We have got one county out there that has all their road signs up. They have got a PSAP. They haven't addressed the county. They still have to assign addresses before even Phase 1 can be used. So, they are all over the board in how this implementation is going. I think the Commission as well as the Legislature are trying to find the right path so that everyone can get served properly.

COMR. LANDIS: Julie, do you have a thought about this? If you think -- I think you just said that we are ready to go. We shouldn't have to wait. We have

a limited resources today. The Legislature has not given us any authority to do anything with that 50 cent surcharge. Are you saying -- if we would do Douglas now and Lancaster because you are ready to go, with these limited resources we have, pretty soon that pot runs dry. Then, what do we do if you want to comment on this, to the next -- Hall County comes to us six months down the pike and says, okay, we are now at this point.

We say, I am sorry. Douglas is there, Lancaster is there, and the 50 cents a month, we are out of money. How do we react to that? I said, we want to do --

MS. RIGHTER: Well, that is when it really becomes a legislative issue, because, okay, so, if you have done -- as an example, if you did Douglas, Sarpy and Lancaster, maybe Cass, maybe you did that maybe even as a regional test project for Phase 2. If you got them up and going, for one, you are going to have worked a lot of the bugs out of firing up Phase 2. There are going to be issues. I mean, Kara is going to be spending a lot of time in our centers, I think, probably at least the first couple when you fire up Phase 2. You will also now have that service to quite a few people. Then, you have -- with the Legislature, you have a successful project that shows this is how it works instead of me bringing examples of somebody that almost gets killed, I can bring in a save. Then, you are going

to have a lot more impact, I think, with the Legislature in getting those funds to get that service out in to the rest of the state. All the more reason -- saying that you are in Scottsbluff, where you are out on a county road and nobody knows where you are at, all the more reason to sell a call like that. They can do that in this project where they have successfully done this. Now, we need the funding to do this from the state level as a -- I don't know --

COMR. LANDIS: So, maybe our perspective shouldn't be a statewide approach. It should be a test market -- let us run a test, let us fund something fully, run the test, work out the kinks, and then we have some to roll out if and when the funding arrives.

MS. RIGHTER: I just -- I was thinking out loud there, going back to what Commissioner Boyle had mentioned. If we don't have enough money, what do we do? We prioritize -- maybe we at least try and do something somewhere. At least then, there is not the appearance of -- we are just waiting for the Legislature.

COMR. VAP: Under the current law, we are paying for upgrades to Phase 2 or we would, but the 50 cent surcharge, if we were to have even half of the state up and running on Phase 2, the 50 cents a month based on current information that we have is not going

to pay for the ongoing monthly cost of operating the system. Therein lies a problem for the Legislature and the Commission both. How do you afford to operate the system with the current surcharge not bringing in enough money? Is there going to have to be something different done here? One of those suggestions is that we tell the cell phone companies, we are going to do Phase 1. You are going to do Phase 2, and we are not going to give you any more money. Current state law says we are going to pay for it. So, that would lead me to think maybe we ought to change state law. But, then, there is no oversight then as to how to implement Phase 2 and whether they had tested properly and do things of that type. So, there is a lot of issues that you have to face before you get to that point. So, we have got to figure out once we say here is the number of PSAPs we have got to have. Here is the direction we are going to go. How much money do we need to operate the system assuming we have it all up and running? How are we going to get it?

COMR. LANDIS: Telling the carriers that we are not going to pay for Phase 2, I don't know if that is really a good answer when they can turn around without any Commission approval and add whatever they want to the phone bill and call it a regulatory surcharge or whatever that would be to recover that cost. Then,

there is no oversight to see whether it is true cost recovery or whether it is a gravy bowl? In other words, if the true cost is 10 cents a month, and they charge 50 cents a month, there is no oversight. That is a just a collateral problem --

COMR. BOYLE: My counter to that is this. If they are multi-state or international company, those customers across the nation pay for those not just Nebraska ratepayers. Nebraska ratepayers right now have a bigger burden than federally they have because of federal law. We are a small state, population is small with limited income. A lot of people who are on subsidies and therefore, I am concerned that the Legislature when they look at this, they are very judicious when they allow us to have any kind of rate increase. When we tried to get the rate increase, and it was a cap. It did not -- we did not say we are going to go all the way to top of the cap. We just wanted to get some leeway within that cap. We even testified I believe that if it is thought that once we get done with the implementation costs, which are enormous -- I think in Douglas County alone, we had to send them almost a million dollars for implementation of Phase 1. When those costs are taken out, then, some of those fees should be -- we can cut back, but we could not -- get that -- make that case to them to allow us to go up

enough so we could move this thing along. So, the alternative to me is we need to do something. If carriers can bear some of those costs, if we can bear some of them, and they can bear some of them. I am concerned that we may have another case like you had here or the one that was held in Lancaster County. It is not just the rural areas where people are going to die because they can't be found.

COMR. VAP: Julie, thank you very much. We appreciate your testimony.

(Witness is excused)

MS. RIGHTER: Thank you.

COMR. VAP: Do we have others who wish to offer testimony?

MS. MELTON: No one else has signed on to the sign sheet.

COMR. VAP: Is there anyone out there that wishes to offer testimony on this subject today?

COMR. LANDIS: Mr. Chairman, if you don't mind, I see a Sprint representative out here. Mr. CIMINO, I don't know if you were here at the start of the hearing. There was some discussion about Omaha and the E-911 and yourself and I think Verizon.

MR. CIMINO: Correct.

COMR. LANDIS: Basically, you are taking no funds out of the state pot for the -- the question is

very simple. Do you get -- are you charging your customers anything for cost recovery on that?

MR. CIMINO: Yes, we are.

COMR. LANDIS: You are.

MR. CIMINO: Yes, for Phase 2, there is a surcharge, a charge across the board, to all of our customers. At some point in time, that will be phased out, but we are prepared to go to Phase 2 in any county that we --

COMR. LANDIS: Okay, and the answer --

MR. CIMINO: -- there is a federal law that says you have to have 95% of your phone -- compatible -- by the end of this year. I don't know if we are going to make that -- that would be the only drawback on Phase 2.

COMR. VAP: How many counties does Sprint have a presence in within Nebraska?

MR. CIMINO: Mr. Chairman, I am not sure. I have never really counted it.

COMR. LANDIS: The answer is he is not sure, and the other answer is there is a surcharge. Is it nationally that all customers get the surcharge or Nebraska customers?

MR. CIMINO: That is correct.

COMR. LANDIS: Which is correct?

COMR. VAP: Nationally, it is an average rate

across every one of our customers.

COMR. LANDIS: Which gets back to what Commissioner Boyle is talking about. Everybody is helping pay the freight of getting high cost states up -

MR. CIMINO: They are charged really upgrades to the system where it can accept the GPS compatibility, if you will. So, any time that the PSAP is upgrading, they are on line.

COMR. LANDIS: Okay. That is helpful. Thank you, Mr. Cimino.

COMR. VAP: Mr. Seglin?

MR. SEGLIN: With respect to Verizon, Mr. Chairman, I am not sure whether they do have a surcharge to customers in Nebraska. I would like to clarify that and notify the Commission. I looked at the comments we filed, and we do not say in the comments that we do -- to recover these costs to our customers, although they are silent on that point. So, I would like to clarify that.

COMR. VAP: Could you find out and make that part of the record later?

MR. SEGLIN: Yes, I can.

COMR. VAP: Thank you.

MR. SEGLIN: Verizon only has service in Sarpy and Douglas County and Dakota County.

COMR. VAP: Three counties.

MR. SEGLIN: Yes.

COMR. VAP: Are there plans to go anywhere else that you know of?

MR. SEGLIN: Not that I know of.

COMR. VAP: Okay.

COMR. LANDIS: Good.

COMR. BOYLE: Not to speak for Verizon, but I am told from Verizon representatives that they plan to come into Lancaster later this year or early next year.

COMR. VAP: That would make four counties.

COMR. BOYLE: If I could ask, ALLTEL -- is the representative from ALLTEL -- oh, Steve Meradith. If I read your comments correctly, in it, you suggested that the carriers be responsible for the costs of Phase 2. Is that correct?

MR. MERADITH: That is correct.

COMR. BOYLE: And, that they be allowed to assess a fee on their bills and that the customer base requests, whatever the multitude of states where they have customers that pay for that technology, is it a fee that will be imposed and then once the technology has been paid for, then, you would take that fee off?

MR. MERADITH: I am not prepared to answer that, Commissioner. What we are looking at, what ALLTEL had suggested, is that there are two states that have

implemented a system, both Arkansas and soon Michigan, where it is essentially a situation where the carrier itself recovered the money. So, what ALLTEL has suggested was that in lieu of the 50 cent surcharge today imposed by the Commission that you recover costs to cover the administrative costs associated with administering the program and then let the carriers self recover the remainder of the costs spread across the market, and include that surcharge on one line of the bill so that it would still say 911 surcharge. That would be self-inclusive to cover the administrative costs as well as the carriers costs of providing the Phase 2 service.

COMR. VAP: And, those are in the comments that were prefiled?

MR. MERADITH: Those were filed, Mr. Chairman, in the Docket 911-015 which is the -- docket that --

COMR. VAP: Okay, all right. Then, we have that information here?

MR. MERADITH: Yes, sir.

COMR. VAP: Okay. Anyone else? Mr. Brooks?

MR. BROOKS: Mr. Chairman. If you please, I do have comments on behalf of N.E. Colorado Cellular, Inc.,

which does business in the state of Nebraska as Viaero Wireless. As you know, Viaero is an independent wireless carrier and operates in the CMRS band. It is licensed in the states of Colorado and Nebraska to provide PCS service. I will be proud to announce to the audience and certainly gratified before the Commission that as of this morning, Viaero became an ETC which allows it to be eligible for Federal Universal Service Funds. In Nebraska, Viaero is deploying an all digital system. All of its network and all of its cell towers are all digital which means that as each cell site that Viaero builds throughout this state is completed, it becomes Phase 1 prepared. It is ready to go upon construction, and can be converted to Phase 2 relatively quickly after there is a request. In terms of this docket, certainly Viaero agrees, understands, and acknowledges that the purpose and goal of 911 is essentially critical to this state for public safety purposes wherever you live, whether it is in the rural areas that Chairman Vap represents or whether it is in the more urban areas in the eastern side with Commissioner Boyle. There is no question that that is a critically important issue for reasons that we can probably discuss for hours. In the wireless world, however, being able to deliver even basic 911 service much less Phase 1 or Phase 2 is a function of coverage.

How well does your network operate? How many towers do you have? What kind of density do you have to be able to take a call and deliver a call without it falling off of the edge of the planet? Coverage is terribly important. As you know, before proceedings in front of the Commission, that Viaero is committed in the western part of the state to build towers so that they have ubiquitous coverage in their area to the extent possible. Viaero is allocating all of its own investment resources. Hopefully, it will have access eventually for reimbursement from NUSF to build towers in the rural areas of the state which are not receiving the kind of service that -- or have the kind of service that those clients and customers in the eastern part of the state and urban areas do have. So, coverage, again, is king, not only in terms of just voice communications but in terms of how we are able to provide 911 service or Phase 1 or Phase 2 service. Clearly, the preeminent benefit of 911 at whatever level is the ability to get a call through. When we are talking about deploying a wireless system to allow wireless providers to provide Phase 1 or Phase 2, that becomes a critically important issue, particularly with regard to Viaero which operates on a GSM platform. In other words, rather than having a chip in the phone as some carriers do, which is able to transmit information through systems directly to the

PSAP as to geographic location, the GSM platform is a network solution system whereby in order to find the kinds of location necessary to comply with Phase 1 and Phase 2, it relies on a triangulation concept which requires at least three towers in a relatively nearly proximity to locate the cell phone and to be able to transmit the information to the PSAP. So, as tower density increases, not only does that increase the quality of the signal, but it also increases the accuracy of its ability to provide 911 response to PSAPs. Again, we are talking about the investment of towers in a sufficiently dense fashion that we get not only voice traffic that is reliable but 911 service that actually gets through to where it is supposed to go through. So, the focus here is how do we deploy as a company like Viaero perhaps differently situated than larger companies both in terms of size of the company and geographic coverage? How do we effectuate what is basic and fundamental to 911, and that is getting the signal through, and also absorb the costs of the deployment of Phase 1 and/or Phase 2? I guess our position is that Phase 1 and Phase 2 ought to be fully funded by the Commission because if it is not, without those kinds of funding mechanisms, the availability of capital and support subsidies to build towers, to create coverage, to create the ability to complete a call is

diverted. So, the process of implementing 911 becomes slower and it becomes a system where you have 911 perhaps that is not easily deployed or adequately deployed to complete the signal. The -- I guess that is kind of the essence of it. There are clearly public benefits that must be obtained throughout the state of Nebraska. As we have discussed, the economics or such that if, for example, the Commission were to say to Viaero, you are going to have to raise money through your customer base to fund Phase 2. Viaero's customer base is very small. We cover a lot of area. We have a very small percent of population in the state and therefore there would be a significant burden either on the company or on the customers to deploy the kind of system that rural Nebraska needs to be able to implement wireless E-911. Whereas companies in -- serving more dense populations or multi-state or perhaps international do have, as you suggest, Commissioner Boyle, a broad base of population from which to achieve a revenue source to pay for the enhancements that are necessary for Phase 1 or Phase 2.

COMR. LANDIS: Put another way, Loel, is that -
- Viaero's customer might have theoretically a \$2 a month surcharge to pay for the -- to provide the service and a Verizon customer might have a 20 cent surcharge, something in that area.

MR. BROOKS: Some relative difference that would be significant, right. The number of lines that we are talking about in rural Nebraska constitutes a very small percentage of all lines in the state of Nebraska. So, to place that burden on a small carrier or a carrier providing service in rural and high cost areas is only going to exacerbate I think the problem of doing two things, both the cost to the consumer and the ability of the provider to get the kind of ubiquitous coverage that I think we are all trying to seek in western parts of the state.

COMR. LANDIS: Have you given any thought to something akin to the USF Fund where we would try to target those parts of the state that need help? Then, Lancaster County and Douglas County and some others, we have a population -- we have carriers that can reach out over several states. In other words, one size fits all.

Maybe that doesn't work in Nebraska. Maybe we should look at one way of funding it in rural areas and another way back here in the eastern -- the carriers assume it and pass it over a large base and in the areas like --

COMR. BOYLE: Let me go down another path fore another docket, but I did ask Mr. Meradith from ALLTEL regarding comments they made, that they thought that the carrier should assess a fee for Phase 2. Also, I am thinking today as you -- feeling very good about ETC

status, they will not be getting some federal funding to help with some of their costs anyway. Your client will.

But if ALLTEL is true to what it means, and what it says, they have pretty heavy coverage throughout the state of Nebraska. If their customers would then be paid for that in rural areas of the state, is Nextel not compatible with ALLTEL that you cannot use their towers?

You would have to be charging a separate fee but they would be able to collect fees from their own customers if that is what we wind up doing? So, we would have to have ratepayers pay for the fees for your client but ALLTEL's customers would pay for it through their bills?

MR. BROOKS: It is a question I don't think I can answer. I just don't have enough knowledge to respond clearly as to whether or not we have technological issues that prevent carriers from collaborating in some fashion. The systems, I can tell you that the Nextel system and the Viaero system are not compatible systems. They are on different platforms. They have different kinds of solutions. In some cases, they cannot share collocation space. So, there are some technical issues. I think the position that both companies feel is appropriate is that this is a general statewide public safety issue. It is a public policy issue, that how we pay for it is going to come from

somebody's pocket some place. To suggest that the carriers alone or each company has to be responsible for deploying through its own cost assessments or its own revenue, all of the costs of their customers access to E-911 services will place a very disproportionate burden on small population areas and companies that don't have the kind of a customer base to draw from for revenue. I think inequity is one that stands clear here in this state. Whether or not the Commission can target funds, it is an interesting legislative issue or regulatory solution. Again, I think you have to go to the Legislature to target how those funds are going to be made and whether or not the state feels that providing E-911 in this day of just basic public safety, not to mention the other kinds of safety and security issues that we are talking about, is really a compelling legislative issue. From the perspective of these companies that are serving rural areas, I think it would be a tremendous burden on both ratepayers on customer costs. It would also account for a difficulty in deploying the kind of tower and ubiquitous coverage that is essential to make this kind of system work wherever it is. You have got to have coverage. You have got to be able to complete a call. The only way you can do that in a wireless environment is to have sufficient coverage to reach all of the areas that you want to

reach. That means the focus has to be on the deployment of infrastructure investment rather than payment of the costs associated with just the E-911 portion. So, I think it is a difficult balancing question. I wish I could answer your specific question more accurately, but I don't have the knowledge to do that at this point.

COMR. BOYLE: Well, thinking about it, what I just outlined has already happened. Sprint and Verizon customers have already paid for it, for Phase 2. Now, we are talking about assessing those same customers who are ratepayers so that they can pay for this -- for everyone else presently. If the Legislature doesn't change the legislation that we currently have on the books, that is what is going to happen unless ALLTEL on its own decides that they are going to do that as Sprint and Verizon did. So, we have -- all in place right now.

MR. BROOKS: I understand. I think that, in essence, there are -- it is clear that there are a host of issues and a host of problems, some of which are legislative or beyond the scope of this particular docket. But we would hope that the Commission, until there is a legislative change, would continue the funding of Phase 1 and Phase 2, that it would recognize the burden that not to do so would place on both smaller companies and rural customers, and that it would allow these small carriers who are committed to providing

better service to be able to spend their money through network improvements and network infrastructure rather than diverting part of it to pay for the costs that benefit all of the public wherever they may be as they go throughout the state. That would conclude Viaero's comments. Thank you.

COMR. VAP: Okay. Any other comments -- questions of Mr. Brooks? Anyone else in the room who wishes to comment? You do have the option to send in written comments as well, too, but not very long. You have got to do it pretty quick here because we will be moving forward with the conclusion of this docket. So, if no one else has got anything to offer, last chance, the hearing is adjourned.

(Whereupon, at or about 2:25 p.m., October 18, 2005, said hearing was closed)